

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Nov 08, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MOSES CUEVAS,

Plaintiff,

v.

DANIEL PSOINOS, ERIC
CARPENTER, AMDAR MOMENI,
and MCKENZIE B. SIMES,

Defendants.

No. 2:23-cv-00243-MKD

ORDER OF DISMISSAL
WITHOUT PREJUDICE

On August 24, 2023, Plaintiff filed a *pro se* civil rights complaint pursuant to 42 U.S. C. § 1983 while housed at Eastern State Hospital. ECF No. 1. Plaintiff utilized a Prisoner Civil Rights Complaint form, but it is unclear from the documents presented whether Plaintiff is a civilly committed patient or a pretrial detainee facing criminal charges.

On October 3, 2023, the Court notified Plaintiff that his status as a prisoner determines whether the Prison Litigation Reform Act of 1996 (PLRA) governs his application to proceed *in forma pauperis*, and instructed him that if he wished to

1 proceed with this action without prepayment of the \$402.00 filing fee (\$350.00
2 statutory filing fee, plus \$52.00 administrative fee), then he must clarify his
3 “prisoner” status so the Court may determine whether to impose the filing fee
4 obligation under the PLRA. ECF No. 4 (citing *Agyeman v. I.N.S.*, 296 F.3d 871,
5 885-86 (9th Cir. 2002)). The Court ordered Plaintiff to clarify his prisoner status
6 by November 2, 2023, by explaining in a letter or motion the reason for his
7 placement at the Eastern State Hospital, who authorized this placement, and under
8 what circumstances. ECF No. 4. at 2-3. The Court also directed Plaintiff to
9 include the status of any criminal charges he is currently facing, or of which he
10 has been convicted or found not guilty. *Id.*

11 In the alternative, Plaintiff was advised that he could pay the full \$402.00
12 filing fee. *Id.* at 3. He was cautioned that his failure to do so by November 2,
13 2023, would result in the dismissal of this case. *Id.* Plaintiff did not comply with
14 these directives.

15 Accordingly, **IT IS ORDERED:**

16 1. This action is **DISMISSED** without prejudice pursuant to Federal
17 Rule of Civil Procedure 41(b) for failure to comply with the Court’s Order
18 Directing Plaintiff to Clarify Prisoner Status, ECF No. 4.

19 2. The Court certifies that any appeal of this dismissal would not be
20 taken in good faith.

1 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
2 enter judgment, provide a copy of this Order and the judgment to Plaintiff, and
3 **close** the file.

4 **DATED** November 8, 2023.

5 s/Mary K. Dimke
6 MARY K. DIMKE
7 UNITED STATES DISTRICT JUDGE
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